

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA )  
 )  
v. ) CASE NO. 2:04-cv-1110-MEF  
 )  
ALFRED ALLEN LEE )

## ORDER

After an independent review of the file, it is the ORDER, JUDGMENT and DECREE of the court that:

(1) The defendant's Partial Objection to the Magistrate Judge Recommendation (Doc. #28) filed on January 5, 2007 is overruled;

(2) The Recommendation of the United States Magistrate Judge entered on December 22, 2006 (Doc. #27) is adopted;

(3) The 28 U.S.C. § 2255 motion filed by the defendant is GRANTED in part and DENIED without prejudice in part. Specifically,

(a) The defendant is granted the opportunity to file an out-of-time appeal based on his claim that his counsel rendered ineffective assistance by failing to prosecute his direct appeal.

(b) The defendant's remaining claims for relief are dismissed without prejudice.

DONE this the 10<sup>th</sup> day of January, 2007.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE